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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of:

Jensen et al.

**Application No.:** 09/862,853

**Confirmation No.:** 8372

**Filed:** May 22, 2001

**For:** HINGE MEMBER PRODUCT DISPLAY  
SYSTEM

**Group:** 3634

**Examiner:** Khoa H. Tran

**Our File:** AGI2-PT002.1

**Date:** December 22, 2003

**AMENDED APPEAL BRIEF**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Sir:

Further to Applicant's October 3, 2003 Notice of Appeal and the Examiner's December 12, 2003 Notification of Non-Compliance, Applicants hereby re-submit the Appeal Brief, in triplicate, along with a corrected Appendix containing only the appealed claims.

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**(1) REAL PARTY IN INTEREST**

The real party in interest is the assignee of record, ART GUILD, INC.

**(2) RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known to Applicant which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

**(3) STATUS OF THE CLAIMS**

The application, as filed, contained claims 1-17. Claims 1 and 3-6 have been rejected and are being appealed. Claims 2 and 7-9 have been withdrawn from consideration as drawn to a non-elected species; claim 1 constitutes a generic claim per the November 22, 2002 Office Action. Claims 10-17 have been cancelled.

**(4) STATUS OF THE AMENDMENTS**

Applicant filed a Second Reply After Final canceling claims 10-17. This amendment has been entered.

**(5) SUMMARY OF THE INVENTION**

The invention is directed to a novel type of display sample for a wing design product display system. The claimed display sample comprises a product sample (20) to which opposed hinge members (50) are secured. See Figure 1 and specification at ¶ [0024]. Each of the hinge members (50), have a pin (56) extending

therefrom for positioning in a respective support rail member or bracket (14, 16) of the display system. See Figures 1, 1a, 9-10 and specification at ¶¶ [0024] and [0027]. The claimed display sample is unique since the rigidity of the product sample (20) maintains upper and lower hinge members (50) in a selected spacing so they can hingedly engage within respective upper and lower display system brackets. See Figure 1 and specification at ¶ [0027].

#### **(6) ISSUE**

Are claims 1, 3, 4, and 6 obvious over Hunn (U.S. Patent No. 6,237,782) in view of Joiner (U.S. Patent No. 3,896,526)?

#### **(7) GROUPING OF CLAIMS**

For purposes of this Appeal, Applicant has treated claims 1 and 3-6 as a single group.

#### **(8) ARGUMENT**

Claims 1 and 3-4 and 6 have been rejected under 35 U.S.C. § 103(a) as being obvious over Hunn in view of Joiner as follows:

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunn in view of Joiner. Hunn discloses a display sample comprising a rigid product sample (14) having spaced-apart upper edge and lower edge portions secured by respective upper and lower hinge members (32 and 34). The upper hinge member is identical to the lower hinge member. See Figures 1 and 3. Joiner teaches a frictional hinge member (20) having first and second opposite portions (36) secure between the edge portions of product sample (21), see Figures 1 and 7, and a pin (55) dimensioned to receive in a pin

receptacle of a wing type display (58) such that the pin is extended outwardly away from the product sample edge portion. See Figures 4 and 7. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to substitute the upper and lower hinge members of Hunn with the provision of hinge members as taught by Joiner in order to frictionally clamp the product sample and allow a variable of clamping force responsive to and [in] accordance with the thickness of the product sample being held therebetween.

See June 3, 2003 Office Action at pgs. 2-3.

Independent claim 1 requires the rigidity of the product being displayed to maintain the spacing between upper and lower hinge members. In Hunn, the products being displayed are carpet samples 22 which do not function in accordance with the claims of the present invention. Item 14 of Hunn is not a product sample, but is a rigid card to which the carpet samples 22 are attached. The present invention is designed to eliminate the cards 14 disclosed in Hunn.

Items 32 and 34 of Hunn, which the Examiner cites as hinge members, are in fact spacers to prevent the product samples from becoming compressed or distorted. See Hunn at column 3, lines 4-17. These spacers have nothing to do with hinging the displayed product.

In an Examiner's Advisory Action dated August 18, 2003, the Examiner asserted that "Joiner has been applied for his teaching of a hinge member that read on applicant's claim language ...". However, Joiner does not disclose the claimed hinge members. Item 20 of Joiner is a clamp which is configured to slide into slots

defined by guide rails 24. See Joiner Figure 1. Accordingly, element 20 in Joiner cannot be considered a hinge member as claimed.

The rejection states that Joiner has "a pin (55) dimensioned to receive in a pin receptacle of a wing type display (58)". The pin element 55 of Joiner is part of a clamp actuation assembly which includes a lever 58 as clearly shown in Joiner Figures 2, 4 and 6. Pin element 55 is completely enclosed within the lever 58 which is part of the clamp 20 of Joiner and does not "extend therefrom" as a hinge pin as defined by appealed claim 1.

Applicants' claims rely upon the rigidity of a product sample to maintain the spacing between the upper and lower hinge members so that the respective upper and lower pins can be mated with the display rack for which it is intended. This concept is not disclosed or suggested in any of the references, either alone or in combination. Neither Hunn or Joiner disclose or suggest hinges having hinge pins for a wing type display. Joiner adds nothing to Hunn that would render the claimed invention obvious over the combination of references. Accordingly, this rejection should be withdrawn.

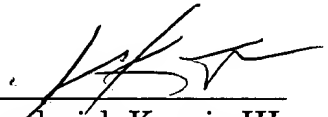
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**Application No.:** 09/862,853

**(9) CONCLUSION**

For the above reasons, Applicants respectfully submits that the presently claimed invention is patentable over the prior art. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

Jensen et al.

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**APPENDIX A**  
**(APPEALED CLAIMS OF U.S. PATENT APPLICATION NO. 09/862,853)**

1. A display sample for a wing type display comprising:
  - a rigid product sample having spaced upper and lower edge portions;
  - an upper hinge member secured to the upper edge portion;
  - the upper hinge member including a pin, extending therefrom, dimensioned to be received in a pin receptacle of a wing type display, and first and second opposed portions between which the upper edge portion of the product sample is secured with the pin extending outwardly away from the product sample upper edge portion; and
  - a lower hinge member associated with the lower edge portion;
  - the lower hinge member including a pin, extending therefrom, dimensioned to be received in a pin receptacle of a wing type display, and the lower edge portion of the product associated with the lower hinge member for support with the lower member pin extending outwardly away from the product sample lower edge portion, such that the rigidity of the product sample maintains a selected spacing of the upper and lower member pins.



3. A display sample according to claim 1 wherein the upper hinge member includes a slot for in which an upper edge of the product sample is secured and the lower hinge member includes a slot in which a lower edge of the product sample is supported.

4. A display sample according to claim 3 wherein the upper and lower hinge members are secured to respective edges of the product sample by a friction fit.

5. A display sample according to claim 4 wherein the upper and lower hinge members are secured to respective edges of the product sample by a fastener.

6. A display sample according to claim 1 wherein the upper and lower hinge members have a common construction, the upper hinge member is secured to an upper edge of the product sample and the lower hinge member is secured a lower edge of the product sample.